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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/056,803	01/24/2002	Anthony Jabar JR.	099505 /51061	9378

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EXAMINER

GRUNBERG, ANNE MARIE

ART UNIT PAPER NUMBER

1661

DATE MAILED: 09/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/056,803	JABAR ET AL.	
	Examiner	Art Unit	
	Anne Marie Grunberg	1661	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 June 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8,9 and 16-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8,9 and 16-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Handwritten initials: JH

Handwritten initials: CT

DETAILED ACTION

Claims 8-9 and 16-20 are pending.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

The double patenting rejection has been dropped since the claims in the instant application are now drawn to a product, whereas the claims in the patent cited in the double patenting rejection are drawn to a method.

Claim Rejections

1. Applicant argues that the claims as they are currently amended overcome the 35 U.S.C. 102(b) rejection of record of Stubbs et al. Basically, Applicants were rejected over a French fry. Applicant argues that the amendment to the independent claim "wherein said cut potato piece can grow into a potato plant" overcomes this art. This argument has been considered but is not persuasive because before the potato is fried it has the ability to grow into a plant.
2. The following new rejection also applies:
3. Claims 8-9 and 16-20 are newly rejected under 35 U.S.C. 103(a) as obvious over McArdle over Redenbaugh et al, for the reasons stated below.
4. Claims 8-9 and 16-20 are drawn to a composition comprising a cut potato piece and coating, said coating comprising a peptide and a polysaccharide complex wherein the peptide is zein and is 2-90% of the weight of the complex and

wherein the polysaccharide is 10-98% of the weight of the complex. The peptide may be 2-30% and the polysaccharide may be 70-98% of the weight of the complex. The polysaccharide may be a cellulosic derivative and may consist of carboxymethylcellulose, methyl cellulose, hydroxypropyl cellulose, hydroxypropyl methycellulose or microcrystalline cellulose. The polysaccharide may be a starch, starch derivative, pectin, or derived from exudates gum polysaccharide.

5. McArdle teaches a peptide-polysaccharide complex (column 1, lines 19-20, and claim 1, for example), wherein said peptide is zein (claim 4, for example) and wherein said peptide is present in an amount of 2-90% or alternatively, 2-30% by weight of the dry weight of the total peptide-polysaccharide complex (claim 1; column 7, lines 25-27; column 7, lines 35-37; column 7, lines 42-46, for example) and wherein the polysaccharide is present in an amount of 10-98%, or alternatively, 70-98% by weight of the dry weight of the peptide-polysaccharide complex (column 8, lines 6-16, for example). McArdle also teaches this peptide-polysaccharide complex being planted with potatoes (column 20, Example 15, lines 10-21). The polysaccharide may be a cellulosic derivative (column 6, line 13, for example), such as microcrystalline cellulose (claim 19, for example) or pectin (column 6, line 16). The polysaccharide may also be derived from an exudates gum polysaccharide (column 6, line 16, for example). Although starch is not explicitly mentioned, it is a mucilaginous polysaccharide and is similar in effect to the examples of polysaccharides described in column 6, lines 11-29. Starch is also mentioned at column 13, line 47.

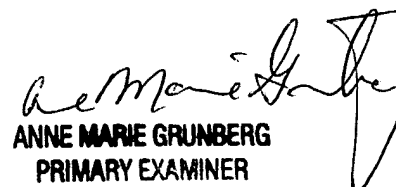
6. McArdle does not teach a seed coating. However, McArdle does teach that this peptide-polysaccharide complex is used as a carrier of agronomically beneficial agents such as insecticides, nutrients, etc. (abstract) and encapsulation is discussed at column 3, line 37.
7. Redenbaugh teaches a seed coating wherein the seeds may be from a variety of sources and species (column 9, lines 25-30). Redenbaugh teaches a starch (column 5, line 20).
8. It would have been *prima facie* obvious to a person of ordinary skill in the art at the time the invention was made to use the peptide-polysaccharide complex as taught by McArdle, and to modify it by incorporating it into a crop seed coating as taught by Redenbaugh, given the advantages of coating seeds as taught by Redenbaugh (column 4, lines 19-24, for example). One of ordinary skill in the art would have recognized that coating seeds is much more efficient than simple broadcasting of agronomically beneficial agents. It brings the needed material close to the seed and allows conservation of resources through pin-point delivery (Redenbaugh, column 3, lines 3-26).
9. The instant claims are drawn to a composition that basically reads on cut potatoes dusted with corn flour.
10. No claim is allowed.

Art Unit: 1661

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anne Marie Grunberg whose telephone number is 571-272-0975. The examiner can normally be reached on Monday - Friday 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Wang can be reached on 571-272-0811. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


ANNE MARIE GRUNBERG
PRIMARY EXAMINER